

S. B. asks the Utah Labor Commission to review Administrative Law Judge Eblen's decision regarding Mr. B.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

ISSUES PRESENTED

Mr. B.'s motion for review purports to raise three "issues" for Commission review. First, Mr. B. contends that Judge Eblen's conclusions of law are not supported by the facts or applicable law, and that Judge Eblen's alleged errors constituted a violation of Mr. B.'s constitutional rights. Second, Mr. B. contends Judge Eblen erred by: 1) failing to apply the "Odd Lot" doctrine to his claim; 2) failing to order vocational rehabilitation; and 3) failing to refer the medical aspects of Mr. B.'s claim to a medical panel. In his third issue, Mr. B. contends United Parcel Service and its insurance carrier, Liberty Mutual (referred to jointly as "UPS" hereafter) should be required to pay a penalty to him.

FINDINGS OF FACT

The Commission adopts and affirms the findings of fact set forth in Judge Eblen's decision.

DISCUSSION AND CONCLUSION OF LAW

Mr. B.'s motion for review is organized and presented in such a manner that it is difficult to extract all of Mr. B.'s specific concerns. The Commission has considered Mr. B.'s entire argument and will address the numerous sub-parts of that argument as the Commission understands them.

In conducting its review, it is the Commission's obligation to determine whether the substantive and procedural provisions of the Utah Workers' Compensation Act and associated Commission rules have been properly applied to Mr. B.'s claim. The Commission will do so in as simple and direct a manner as possible. Furthermore, the Commission will not consider any material that Mr. B. has submitted for the first time as part of his motion for review.

Mr. B. argues the Commission should impose sanctions against UPS and its counsel. The Commission finds no factual basis that would support sanctions. It is therefore unnecessary to address the Commission's legal authority to impose sanctions.

It appears that Mr. B. argues that certain rights or privileges should be extended to him as a third year law student. However, in this proceeding he is functioning as a *pro se* litigant. He is not representing someone else. In any event, this issue appears to have no practical significance to the proper adjudication of his claim.

Mr. B. challenges the right of Mr. Holdsworth, Mr. B.'s former attorney, to receive payment of attorneys fees and costs for his services to Mr. B. Having reviewed Mr. Holdsworth's efforts on behalf of Mr. B. and the provisions of the Commission's rule on attorneys fees, the Commission concludes Mr. Holdsworth is fully entitled to the attorneys fees and costs awarded by Judge Eblen's decision. As to Mr. B.'s various claims against Mr. Holdsworth, the Commission finds no factual or legal merit to such claims.

Mr. B. contends Dr. Chung's medical report should be excluded from evidence for lack of medical foundation. The Commission disagrees. Dr. Chung's report is supported by a reasonable evaluation of Mr. B.'s medical records and Dr. Chung's professional expertise. Likewise, Dr. Chung's report supports Judge Eblen's resolution of Mr. B.'s claim.

Next, Mr. B. challenges Judge Eblen's determination regarding Mr. B.'s right to reimbursement for his travel to Salt Lake City. The Commission concurs with Judge Eblen's reasoning in calculating the amount of travel reimbursement due with respect to his travels to Salt Lake City in connection with this claim.

Mr. B. also claims that his claim should be judged under the Odd Lot doctrine. Even if the doctrine were deemed to have survived recent statutory changes, it is only applicable to permanent total disability claims. It has no applicability to Mr. B.'s current claim.

Finally, Mr. B. argues for imposition of a 15% penalty against UPS for willful misconduct. The Commission finds no factual support for any such penalty and therefore denies Mr. B.'s request.

In conclusion, Mr. B.'s arguments against Judge Eblen's decision are inaccurate as to fact and misguided as to law. The Commission finds that Judge Eblen has fully evaluated Mr. B.'s right to workers' compensation benefits and has properly awarded such benefits. The Commission adopts Judge Eblen's reasoning and affirms her decision.

ORDER

The Commission denies Mr. B.'s motion for review and affirms and adopts Judge Eblen's findings of fact, conclusions of law and decision. It is so ordered.

Dated this 26th day of July, 2004.

R. Lee Ellertson, Commissioner